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INTERIM PROBLEM-SOLVING COURT RULES

ADOPTED APRIL 23, 2010 (EFFECTIVE JULY 1, 2010)

BY THE JUDICIAL CONFERENCE OF INDIANA

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Section 1. Applicability

(a) These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide problem-solving court services to participants pursuant to IC 33-23-16.

(b) Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides reentry court services to or for persons ordered by the court to participate in the reentry court must be certified.

Section 2. Approval Requirements

(a) A person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide services to persons who participate in a certified problem-solving court and whose services are within the scope of IC 33-23-16, may not offer, advertise, deliver, or provide services without first obtaining a provisional certificate of approval from the Indiana Judicial Center in accordance with these rules.

(b) Drug courts or reentry courts certified by the Indiana Judicial Center prior to July 1, 2010, may continue to operate and retain their certification status in accordance with these rules.

Section 3. Definition of Terms

The following terms, when used in these rules, shall have the meanings below unless the context clearly indicates a different meaning:

"Case management" means goal oriented activities that facilitate, coordinate, or monitor the full range of basic human needs, treatment, and service resources and delivery for individual problem-solving court participants in accord with the policies and procedures of the problem-solving court or other service provider.

"Case manager" means a problem-solving court team member responsible for managing a number of individual problem-solving court participants and the participants' respective case files, which may include administering a risk and needs assessment, substance abuse and mental health screening, referral to treatment and ancillary services, monitoring participant compliance with the case management plan and other applicable agreements and providing participant progress and compliance information to the problem-solving court team. A problem-solving court case manager may include a probation officer, community corrections officer or a parole officer.

"Certified problem-solving court" means a problem-solving court that has applied for and has received a certificate of approval from the Indiana Judicial Center.

"Eligibility screening" means a procedure for determining a potential participant's legal eligibility for admission to the problem-solving court under IC 33-23-16 and court guidelines.

"Policy" means a statement of the principles that guide and govern the activities, procedures and operations of a problem-solving court.

"Procedure" means a series of activities designed to implement problem-solving court goals or policy.

"Problem-solving court" means services established under IC 33-23-16 that provide

supervision, offender assessment, judicial involvement, case management and services, program evaluation, counseling and rehabilitative care.

"Problem-solving court coordinator" means the individual responsible for the administration, management and coordination of problem-solving court services and operations, which includes supervising problem-solving court staff, ensuring the court's compliance with the problem-solving court statutes and rules, developing problem-solving court policies and procedures, managing service provider contracts and team member memoranda of understanding, managing program grants, facilitating team meetings, and serving as a liaison to local service providers and community groups.

"Problem-solving court judge" means the judicial officer who presides over a problem-solving court.

"Problem-solving court services" means a broad range of services provided under a case management plan, including supervision, offender assessment, judicial involvement, case management and services and program evaluation that may be extended to a problem-solving court participant and that influence the behavior of the participant toward identified goals and objectives. The services and the manner in which they are provided are guided by IC 33-23-16.

"Recertification review" means the process of reviewing a problem-solving court's compliance with the statutes, rules and standards for certified problem-solving courts, to include the application for recertification, review of applicable problem-solving court documentation and the problem-solving court site visit.

Section 4. Notification of Intent

Except as provided in section 6, a court shall notify the Indiana Judicial Center in writing during the planning stages of the court's intention to establish a problem-solving court.

Section 5. Provisional Certification Procedures

(a) Except as provided in sections 6, a court that proposes to establish a certified problem-solving court under IC 33-23-16 must do the following to become provisionally certified:

- (1) Submit a completed application for provisional certification to the Indiana Judicial Center.
- (2) Submit a copy of the problem-solving court's policies and procedures manual outlining the court's plan for operation, including participant eligibility, the process by which participants are referred to the court and determined eligible, the fee structure and staff qualifications.

(b) The Indiana Judicial Center will review the court's application and policy and procedures manual. The Indiana Judicial Center shall conduct a site visit to determine whether the proposed court practices are in compliance with these rules, applicable federal and state laws, the components of a problem-solving court and the court's policy and procedures manual. The Indiana Judicial Center may offer recommendations as appropriate.

(c) The Indiana Judicial Center must approve or deny the court's application to establish a certified problem-solving court.

- (1) The Judicial Center must approve the court's application for provisional certification

if the problem-solving court has:

- (A) submitted an application that includes a plan for operation that complies with IC 33-23-16 and other applicable federal and state laws and rules;
 - (B) identified appropriate resources to provide the services proposed; and
 - (C) stated its intention to apply for certification once the Judicial Conference Board of Directors adopts final rules governing the certification of problem-solving courts.
- (2) If the Indiana Judicial Center denies the court's application to establish a certified problem-solving court, the Judicial Center must follow the procedures outlined in section 7.

(d) After a problem-solving court receives the provisional certificate from the Indiana Judicial Center the problem-solving court may:

- (1) assess and collect fees authorized by IC 33-23-16-23; and
- (2) begin the delivery of services authorized by IC 33-23-16.

(e) A provisional certificate is valid for up to eighteen (18) months. At the discretion of the Indiana Judicial Center, the provisional certificate may be renewed one time for a period of up to one (1) year. The provisional certificate of approval must be displayed in a prominent place in the problem-solving court and a copy must be kept on file in the office of the Indiana Judicial Center.

(f) The provisionally certified problem-solving court must complete an application for full certification and return it to the Indiana Judicial Center with any other materials requested by the Judicial Center no later than ninety (90) after the Judicial Conference Board of Directors adopts final rules governing the certification of problem-solving courts.

(g) A provisionally certified problem-solving court must comply with these rules and the provisional certificate is subject to revocation for failure to do so.

Section 6. Certification Procedures for Drug Courts and Reentry Courts Certified Prior to the Rules

(a) This section applies to a problem-solving court certified prior to July 1, 2010. The certified problem-solving court may continue to operate pursuant to this section. The Indiana Judicial Center shall oversee the certification of problem-solving courts under this section.

(b) A problem-solving court certified as a drug court prior to July 1, 2010, shall maintain certification and comply with the Judicial Conference of Indiana drug court rules adopted March 21, 2003, and last amended September 15, 2009, except as provided in subsection (d) of this section.

(c) A problem-solving court certified as a reentry court prior to July 1, 2010, shall maintain certification and comply with the Judicial Conference of Indiana reentry court rules adopted December 4, 2009, except as provided in subsection (d) of this section.

- (d) The following provisions are superseded by the interim problem-solving court rules:
- (1) Section 18 of the drug court rules; and,

(2) Section 17 of the reentry court rules.

(e) A court certified under the drug court rules or the reentry court rules must initiate problem-solving court certification in accordance with the final rules for problem-solving courts adopted by the Judicial Conference of Indiana in conjunction with the court's scheduled re-certification review.

Section 7. Denial of Application for Certification

(a) The Indiana Judicial Center may deny an application for certification or recertification for one (1) or more of the following reasons:

- (1) Permitting, aiding, or abetting the commission of an unlawful act.
- (2) Conduct or practices found by the Indiana Judicial Center to:
 - (A) threaten public health or safety; or
 - (B) be harmful to the health or safety of any participant in the problem-solving court.
- (3) Deviation from the plan of operation submitted with the application that, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services provided to participants.
- (4) Failure of the applicant to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation.
- (5) Failure of the applicant to provide accurate or reliable information on the application or regarding the problem-solving court's operations or practices.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to deny the application. The notice must contain all of the following information:

- (1) A brief statement explaining the reasons for the denial.
- (2) A statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Indiana Judicial Center, within thirty (30) days, stating why the denial should not become final.
- (3) If the supervising judge submits timely objections to the proposed denial as described in subdivision (2), and the problem-solving court is in operation, the problem-solving court may continue operating, except in extraordinary circumstances, until the conclusion of negotiations and hearings.
- (4) In extraordinary circumstances, the Indiana Judicial Center may limit or deny this period of operation if it determines that continued problem-solving court operations present an imminent danger to the public health or safety.

(c) If the supervising judge submits written objections, the Indiana Judicial Center must provide a full opportunity for resolution of all disputed issues.

(d) If objections to an impending denial have been submitted, no settlement of the points of contention can be made, and the Indiana Judicial Center denies the application a second time, the supervising judge may, within fifteen (15) days of the date the second denial is issued, request a hearing. The Indiana Judicial Center must provide the hearing and the hearing must be conducted as described in section 9.

Section 8. Suspension and Revocation Procedures

(a) The Indiana Judicial Center may revoke a problem-solving court's provisional certificate for one (1) or more of the following reasons:

- (1) Permitting, aiding, or abetting the commission of an unlawful act.
- (2) Conduct or practices found by the Indiana Judicial Center to:
 - (A) threaten public health or safety; or
 - (B) be harmful to the health or safety of any participant in the reentry court.
- (3) Deviation from the plan of operation submitted with the application that adversely affects the character, quality, or scope of services provided to participants.
- (4) Failure of the problem-solving court to cooperate with the Indiana Judicial Center in connection with the certification process or the investigation of a complaint pertaining to the problem-solving court's compliance with IC 33-23-16, these rules and related federal and states laws, rules and regulations.
- (5) Failure of the problem-solving court to provide accurate or reliable information on the application or regarding the problem-solving court's operations or practices.
- (6) Failure to apply for certification no later than ninety (90) days after the Judicial Conference Board of Directors adopts final rules governing problem-solving court certification.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to revoke the provisional certificate. The notice must contain all of the following information:

- (1) A brief statement explaining the reasons for revocation.
- (2) Notification of the Indiana Judicial Center's request for a hearing under section 9(c) to determine the issue of revocation of the problem-solving court's certificate.
- (3) A statement of the matters of law and fact to be determined at the hearing.

(c) The Indiana Judicial Center may suspend a provisional certificate, upon written notice to the supervising judge provided simultaneously to the notice of the institution of revocation proceedings described in subsection (b), if the Indiana Judicial Center determines an imminent danger to public health or safety warrants this action. The suspension continues in effect until the conclusion of all hearings, including any judicial review, unless sooner withdrawn by the Indiana Judicial Center or dissolved by a court of competent jurisdiction.

(d) Whenever the Indiana Judicial Center determines that any reason exists justifying the revocation of a problem-solving court's provisional certification, the Indiana Judicial Center must observe the procedures required in section 9.

Section 9. Hearing Procedures

(a) All hearings held to determine issues relating to the denial or revocation of a provisional certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections under section 7(b) may file a request for a hearing.

- (1) The request must be in writing and must state the reason for the request for hearing.

(2) The request for hearing may not include any reasons that were not included in the objections submitted under section 7(b).

(3) The request must be filed with the Indiana Judicial Center within fifteen (15) days after the second denial of the application under section 7(d).

(c) Within thirty (30) days after a request for a hearing has been filed with the Indiana Judicial Center, the Problem Solving Courts Committee (PSCC) shall appoint a hearing examiner to be selected as follows:

(1) The executive director of the Indiana Judicial Center shall create a list naming three (3) judges who are members of the PSCC but who are not members of the Board of Directors of the Judicial Conference.

(2) In designating the three (3) judges the executive director shall consider availability, years of service on PSCC, and extent of participation.

(3) The supervising judge shall select one (1) name from the three (3) listed and advise the executive director of the name selected.

(d) The hearing examiner shall conduct an informal hearing with thirty (30) days after the date the hearing examiner is appointed.

(1) At least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Judicial Center with written notice of the date, time and place of the hearing.

(2) The Indiana Judicial Center must show why:

(A) the application does not meet certification requirements established by the Judicial Conference of Indiana; or

(B) revocation of the certificate is justified.

(3) Either party may submit evidence.

(4) The hearing examiner is not required to follow any formal rules of evidence or procedure.

(5) The hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy from the Indiana Judicial Center of the electronic recording or the written transcript if a written transcript has been prepared.

(6) The hearing examiner may ask each party to submit proposed findings and recommendations after the hearing.

(7) The hearing examiner may grant the parties an extension of time for good cause.

(e) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Indiana Judicial Center.

(1) Objections to the findings and recommendations must be:

(A) in writing; and

(B) filed with the Indiana Judicial Center no later than fifteen (15) days after the date the proposed findings and recommendations were issued.

(2) The findings and recommendations will be submitted to PSCC unless the supervising judge gives written notice within the fifteen (15) day period that he or she has decided to withdraw the appeal.

(3) If no objections are filed and PSCC adopts the findings and recommendations as submitted without a hearing, those findings and recommendations become final.

(4) If either the supervising judge or the executive director of the Indiana Judicial Center objects to the findings and recommendations, or if PSCC proposes to modify or reject the findings and recommendations in the absence of any objections, PSCC must conduct a hearing and provide the supervising judge and the executive director of the Indiana Judicial Center with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Indiana Judicial Center must give written notice of the date, time and place of the hearing to the supervising judge.

(5) PSCC's findings and recommendations must be adopted by a majority vote of the members present and voting.

(f) The supervising judge or the executive director of the Indiana Judicial Center may request the Board of Directors of the Judicial Conference to review PSCC's decision.

(1) The request for review must be:

(A) in writing describing specific objections to the findings and recommendations adopted by PSCC; and

(B) filed with the Indiana Judicial Center or the supervising judge within fifteen (15) days after the date PSCC renders its decision.

(2) At least ten (10) days before the Board meeting, the Indiana Judicial Center must give written notice of the date, time and place of the meeting to the supervising judge.

(3) The Board's findings and recommendations must be adopted by a majority vote of the members present and voting and are final.

(4) The Indiana Judicial Center shall notify the supervising judge of the Board's decision in writing within ten (10) days after the decision is made.

Section 10. Problem-Solving Court Staff Requirements

(a) A problem-solving court must have a policy and procedure describing problem-solving court staff qualifications.

(b) A problem-solving court must have written evidence that the problem-solving court coordinator complies with at least one (1) of the following descriptions:

(1) has a baccalaureate degree in criminal justice or a human services field from an accredited university or college, and the equivalent of five (5) years of full-time paid experience in criminal justice or a human services; or

(2) was employed as a problem-solving court coordinator before July 1, 2010.

(c) A problem-solving court must have written evidence that each case manager and each staff member performing intake and referral or risk assessment complies with at least one (1) of the following:

(1) has a baccalaureate degree in criminal justice or a human services field from an accredited university or college; or

(2) was employed by a problem-solving court as a case manager or a staff member performing intake and referral or risk assessment before July 1, 2010.

(d) A volunteer that performs one or more job duties of the problem-solving court coordinator or a case manager as defined in section 3 must meet the qualifications in subsection

(b) or (c) of this section, as applicable.

Section 11. Eligibility Screening and Referral to Problem-Solving Court

(a) A problem-solving court must have a written policy and procedure regarding referral to problem-solving court and determining an individual's legal eligibility for problem-solving court participation under IC 33-23-16-13.

(b) A person is not eligible for participation in a problem-solving court with criminal jurisdiction pursuant to IC 33-23-16-13(A) or (B) if the offense for which the person is referred to the problem-solving court is a forcible felony as defined in IC 35-41-1-11.

(c) Final determination of the individual's eligibility to participate in the problem-solving program rests with the problem-solving court judge.

Section 12. Problem-Solving Court Services Fee

(a) A problem-solving court may require eligible individuals to pay a problem-solving court services fee not to exceed fifty dollars (\$50) per month per referral to a problem-solving court.

(b) The problem-solving court shall adopt by local court rule a schedule of fees assessed for problem-solving court services.

(c) The problem-solving court fee shall be collected and utilized in accordance with IC 33-23-16-23.

END